

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

ROBERTO C. VALENZUELA, #1133799	§	
VS.	§	CIVIL ACTION NO. 6:13cv553
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

Petitioner Roberto C. Valenzuela, a prisoner confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 concerning a prison disciplinary matter. The petition was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the case should be dismissed.

The Petitioner filed objections. He objected to the Report and Recommendation because he did not consent to having the case referred to a magistrate judge. The Fifth Circuit has rejected such objections as follows:

This argument is frivolous because the magistrate judge only made “findings of fact and recommendations” pursuant to § 636(b)(1)(B), and the consent of the parties was not required for the district judge to refer the case to a magistrate judge because “the ultimate decision-making authority was retained by the district court.”

*Lineberry v. United States*, 436 Fed. Appx. 293, 295 (5th Cir. 2010) (citations omitted). The Petitioner made no other objections to the Report and Recommendation, thus his objections are frivolous.

The Report and Recommendation of the Magistrate Judge, which contain his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration,

and having made a *de novo* review of the objections raised by Petitioner, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Thus the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the Report and Recommendation (docket entry #4) is **ADOPTED**. It is further

**ORDERED** that the petition for a writ of habeas corpus is **DISMISSED** with prejudice. It is further

**ORDERED** that the lawsuit is **DISMISSED** without prejudice with respect to a possible civil rights lawsuit involving allegations of deprivation of property without due process. It is further

**ORDERED** that a certificate of appealability is **DENIED**. It is finally

**ORDERED** that all motions not previously ruled on are **DENIED**.

**It is SO ORDERED.**

**SIGNED this 13th day of August, 2013.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE